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05/795-813 APPLICATION NO. 1-8	06/18/97 FILING DATE	SCHLIMMER FIRST NAMED INVENTOR	ATTORNEY DOCKET NO. 69430
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12M1/0609

EXAMINER GITOMER, R
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ART UNIT 1211	PAPER NUMBER
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DATE MAILED: 06/09/97

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

08/793,833

Applicant(s)

Schumacher et al.

Examiner

Ralph Gitomer

Group Art Unit

1211


☒ Responsive to communication(s) filed on Feb 18, 1997
☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**
☒ Claim(s) 1-27 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-27 are subject to restriction or election requirement.
**Application Papers**
☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.
**Priority under 35 U.S.C. § 119**
☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
**Attachment(s)**
☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-6, 23-28, drawn to process for measuring  
5 enzyme activity, classified in class 435, subclass 4.

II. Claims 7-22, drawn to a device for measuring activity,  
classified in class 435, subclass 288.

The inventions are distinct, each from the other because:

Inventions I and II are related as process and apparatus for  
10 its practice. The inventions are distinct if it can be shown  
that either: (1) the process as claimed can be practiced by  
another materially different apparatus or by hand, or (2) the  
apparatus as claimed can be used to practice another and  
materially different process. (MPEP § 806.05(e)). In this case  
15 the method can be practiced by hand.

Because these inventions are distinct for the reasons given  
above and have acquired a separate status in the art as shown by  
their different classifications, restriction for examination  
purposes as indicated is proper.

20 A telephone call was made to Gerald Shekleton on 6/5/97 to  
request an oral election to the above restriction requirement,  
but did not result in an election being made.

Applicant is advised that the response to this requirement  
to be complete must include an election of the invention to be  
25 examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (703) 308-0732. The examiner can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm. The examiner can also be reached on alternate Mondays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. John Kight, can be reached on (703) 308-0204. The fax phone number for this Art Unit is (703) 308-4556. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1234.

*Ralph Gitomer*  
Ralph Gitomer  
Primary Examiner  
Group 1211

RALPH GITOMER  
PRIMARY EXAMINER  
GROUP 1200